The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building,
100 Cambridge Street, Boston 02204

Ira A. Jackson
Commissioner

April 25, 1983

You inquire as to the Massachusetts income tax treatment of pensions in the following situations.

Taxpayer I, a Massachusetts resident, accrued all of his pension benefits from Massachusetts employment. He retires, moves and becomes a legal resident of New Hampshire.

Taxpayer II resided and worked in Pennsylvania for 30 years. His employer transferred him to Massachusetts where he resided and worked for six additional years prior to his retirement. He then retires, moves to New Hampshire, and becomes a legal resident of New Hampshire.

Taxpayer III resided in and worked in Massachusetts for 32 years and five months. His employer subsequently transferred him to Pennsylvania where he became a resident and worked for four years and seven months until his retirement.

Every non-resident must file a non-resident income tax return if during the taxable year he received gross income from sources within Massachusetts either in excess of $2,000 or in excess of the $2,200 personal exemption prorated on a percentage basis of his Massachusetts income divided by his income from all sources. (G.L. c. 62C, s. 6(a)).

Items of gross income from sources within the Commonwealth are items of gross income derived from or effectively connected with any trade or business, including employment carried on by the taxpayer in the Commonwealth or derived from the ownership of any interest in real or tangible personal property located in the Commonwealth. (G.L. c. 62, s. 5A(a)). Income received by a non-resident from a pension derived from employment in the Commonwealth is gross income subject to Massachusetts income tax. (L.R. 79-17).

A non-resident whose pension is derived from employment both within and without Massachusetts with the same employer is subject to Massachusetts income taxation on a percentage of his annual pension equal to the number of years of Massachusetts employment divided by the total number of years worked for the employer.

Taxpayer I will include in his Massachusetts gross income 100% of the amount of his pension included in his federal gross income.

Taxpayer II will include in his Massachusetts gross income 16.67% (6 years ÷ 36 years) of the amount of his pension included in his federal gross income.

Taxpayer III will include in his Massachusetts gross income 87.62% (32 years, 5 months ÷ 37 years) of the amount of his pension included in his federal gross income.

A resident of Massachusetts who is receiving a pension will include in his Massachusetts gross income the entire amount of his pension included in his federal gross income, unless it is otherwise exempt.

Very truly yours,

Ira A. Jackson

Commissioner of Revenue

IAJ:VGS:mf

LR 83-30